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National Association of Wheat Growers

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Oct. 28, 2011

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E St SW
Washington, D.C. 20423
Transmitted via e-mail

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Office of Proceedings**

OCT 28 2011

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Re Finance Docket 35506

Dear Ms. Brown

Thank you for the opportunity to file this statement in Finance Docket 35506. The National Association of Wheat Growers (NAWG) is a federation of 21 state wheat grower associations that works to represent the needs and interests of wheat producers before Congress and federal agencies. Based in Washington, D.C., NAWG is grower-governed and grower-funded, and works in areas as diverse as federal farm policy, trade, transportation, environmental regulation, research and climate change. Since the freight railroads of our nation move a substantial portion of our wheat to market, one of our specific missions is to improve federal rail policy.

We strongly object to BNSF Railway being allowed to inflate its asset base by as much as 30 percent through the inclusion for STB regulatory purposes of at least \$7.625 billion of the "acquisition premium" paid by Berkshire Hathaway to purchase all of the outstanding stock of BNSF in 2010. The acquisition premium is the amount paid for BNSF stock that exceeded the total market value of that stock on the official date of the transaction.

We understand that the inclusion of a portion of the acquisition premium is likely to have the following effects that are adverse to rail dependent shippers:

- in the annual revenue adequacy determinations, BNSF is likely to appear to be farther from revenue adequacy than when Berkshire Hathaway purchased the stock;
- the "jurisdictional threshold" of the Board for BNSF will translate to higher rates than the rates that would be at the threshold before the inclusion of the acquisition premium; and
- the "three benchmark" simplified rate challenge methodology will result in higher rates being viewed as "reasonable" due to a larger factor being included to assist BNSF to achieve "revenue adequacy".

From the perspective of our grower members, allowing this accounting maneuver could "deregulate" some captive wheat transportation rates of BNSF by "lifting" the jurisdictional threshold, penalize captive wheat shippers who use the three benchmark methodology to challenge their rates as being unreasonably high; and make a railroad that Berkshire Hathaway bought because it was highly profitable look very unprofitable. We can identify no sound public policy purpose that would support allowing this major freight railroad unilaterally to worsen the position of captive wheat growers who transport wheat on the BNSF.

Our members are in regular communication with us about the high rates they are charged by BNSF and the Union Pacific Railroad. Please do not worsen the position of our members in their negotiations with BNSF by allowing the company to strengthen its position through this highly questionable accounting maneuver.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Peterson". The signature is fluid and cursive, with the first name "Dana" and last name "Peterson" clearly distinguishable.

Dana Peterson
Chief Executive Officer